2007 Legislative Amendments to the Indiana Code Relating to Credit Unions

Effective July 1, 2007

Questions, Answers, and Administrative Interpretations

1. What changes have been made to the Indiana Credit Union Act relating to investments by state-chartered credit unions in credit union service organizations (CUSOs)?

Answer – The overall amount that a state-chartered credit union may invest in a CUSO has been increased from five percent (5%) to ten percent (10%) of its total unimpaired capital plus shares. This amendment also includes a provision allowing the DFI to approve a higher amount. The language also clarified that the amount a credit union may invest in a CUSO is based on its total unimpaired capital plus shares. [IC 28-7-1-9]

2. What changes have been made relating to mortgage lending by state-chartered credit unions?

Answer - First, the Indiana Credit Union Act has been amended to remove the 33 1/3 percent of assets that a credit union may make in fixed mortgage loans. No such limitation exists for federal credit unions due in part to the view that such decisions should be made by management based on the circumstances of each credit union. [IC 28-7-1-17(b)(4)]

Second, the Act has been amended to eliminate the requirement for mortgage insurance for the portion of a first mortgage loan that exceeds 90 percent of the properties fair cash value. Again, such a restriction is not applicable to federal credit unions and its elimination is in keeping with the view that management of the credit union is best positioned to determine whether mortgage insurance should be required in any given circumstance. [IC 28-7-1-17(b)(4)(B)]

3. What changes have been made relating to investments available to well capitalized credit unions?

Answer – The Act has been amended to authorize well capitalized credit unions the ability to invest a limited amount of their capital in investment grade corporate debt. Again, these amendments reflect similar provisions available to federal credit unions. [IC 28-7-1-9]

4. What must a state credit union establish in order to prevail in a request from the DFI for a grant of parity?

Answer – The provisions of the Credit Union Act relating to parity between state and federal credit unions have been amended to make the procedure for requesting parity a four-step process involving analysis of the same four elements as has been previously required to establish federal preemption**.** The two elements already in the law on parity were determinations by the DFI that federal credit unions domiciled in Indiana possess the requested rights and privileges, and that the exercise of those rights and privileges would not adversely affect the safety and soundness of the credit union. Under the amended statute, the DFI will also consider if the grant of parity would result in an unacceptable curtailment of consumer protection. The DFI must also determine if the failure to grant parity will place the state-chartered credit union at an unacceptable competitive disadvantage. [IC 28-7-1-9.2]